



JAMES D. WELCH  
ATTORNEY AT LAW  
PROFESSIONAL ENGINEER

IFW

INTELLECTUAL PROPERTY  
402-391-4448

10328 PINEHURST AVE.  
OMAHA, NEBRASKA 68124

March 15, 2006

Commissioner for Patents  
Box: 1450  
Alexandria, VA 22313-1450

RE: APPLICATION OF LIPHARDT TITLED "ALIGNMENT OF ELLIPSOMETER  
BEAM TO SAMPLE SURFACE";  
SERIAL NO. 10/684,088;  
FILE DATE: 10/12/2003;  
ART UNIT: 2877;  
EXAMINER: ISIAKA O. AKANBI

Dear Sir;

I am in receipt of an Action dated 02/28/06 regarding the identified Application.

The Examiner previously identified Section 112 problems in Claims 19 and 20 and rejected Claims 1-20 based on Patents to Xu et al. No. 6,590,656 and to Rosencwaig et al. No. 6,297,880 under Sections 102 and 103. Claims 19 and 20 were canceled in response and amendments entered to many of the remaining Claims.

It was previously argued that the Xu 656 Patent did not describe a rotatable stage but only a translatable stage. The Examiner has cited language in the Background Section of Xu 656 which states that in 2-O Scatterometry systems:

"By either rotating the sample or illuminating beam, the angle of incidence on the sample is changed."

and argued that this constitutes disclosure in Xu 656 of a system which comprises a rotatable stage. The Examiner has further cited a Patent to Ono No. 6,259,174 to a stage which provides six degrees of freedom.

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS TRANSMITTAL IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE FOR FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR PATENTS, BOX: 1450, ALEXANDRIA VA. 22313-1450 ON THE DATE INDICATED BELOW.

JAMES D. WELCH

DATE

3/15/06